

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

UNITED STATES OF AMERICA) Criminal Case No. 3:08cr-00042
)
v.)
)
TONY LLOYD JOHNSTON.) **ORDER**
)
)
) **By: Norman K. Moon**
) **United States District Judge**

In accordance with the accompanying memorandum opinion, it is hereby

ADJUDGED AND ORDERED

as follows:

1. Johnston's motion for reconsideration (Docket No. 111) is **CONSTRUED** as a Motion to Vacate, Set Aside or Correct Sentence, pursuant to 28 U.S.C. § 2255;
2. The clerk is **DIRECTED** to re-docket the motion (Docket No. 111) as a § 2255 motion;
3. Johnston's § 2255 motion is hereby **DENIED** without prejudice as successive and stricken from the active docket; and
4. A certificate of appealability is **DENIED**, based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right.

ENTER: This 25th day of October, 2013.


Norman K. Moon
NORMAN K. MOON
UNITED STATES DISTRICT JUDGE